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Attorney for MLS, LLC

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>IN RE:</b> <b>DAVID PENA AND ROSA E. CAZARES,</b>  <b>Debtors.</b>	§ § § § §	<b>CASE NO. 10-40194</b>  <b>CHAPTER 13</b>
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**OBJECTION OF MLS, LLC TO PLAN CONFIRMATION**

**NOW COME(S)** MLS, LLC (hereinafter referred to as “MLS” –the singular to include the plural), and files this **Objection to Plan Confirmation**, stating as grounds therefore the following:

**I.**  
**Jurisdiction**

1) This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, *et seq.* This is a core proceeding under 28 U.S.C. § § 157(b)(2)(L). This Objection is designated as a contested matter under Bankruptcy Rule 9014.

**II.**  
**Parties and Service**

2) The Debtor (whether one or more), has been served with a copy of this Objection pursuant to Bankruptcy Rule 7004(b)(9). If applicable, Debtor’s Counsel has also been served with a copy of this Objection at the address of record.

**III.****Preliminary Statement**

3) MLS is a fully secured creditor with a tax claim priority status of Debtor and the Estate, holding a tax claim against property of the Estate in the amount of approximately \$20,500.00.

**IV.****Objections**

4. MLS objects to confirmation of the proposed plan on the grounds that the proposed plan fails to comply with Fifth Circuit case law (see attached Exhibit "A") and with the provisions of 11 U.S.C. Sections 511, 1322, and 1325, as it attempts to modify the rights of a holder of a tax claim secured by real property, specifically,

X	Debtor's Plan fails to fully provide for MLS's claim.
X	Debtor's Plan fails to provide for the retention of MLS's tax claim on property of the Debtor's and/or the Debtor's Estate.
X	The interest rate proposed in the Debtor's plan is unreasonably low, MLS's avers that its claims should be paid with the contract interest rate of 17.5% per annum pursuant to the 11 U.S.C. Section 511, "[i]f any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable non bankruptcy law."
	Debtor's Plan improperly classifies MLS's allowed tax claim a General Unsecured Claim

**WHEREFORE, PREMISES CONSIDERED,** MLS's respectfully prays that this Court sustain its Objection to Summary Plan Confirmation, that it deny confirmation of the Debtor's Plan, that the Court award reimbursement of cost and reasonable attorney's fees incurred for filing and resolution of this objection, and for such other and further relief, at law or in equity, as is just.

Respectfully submitted,

**M. SUZANNE FROSSARD, P.C.**

/s/ Suzanne Frossard

**SUZANNE FROSSARD**

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served via first class United States Mail postage prepaid and/or electronic filing on all parties requesting notice on this 3rd day of February, 2011, to the following parties:

Christopher Morrison  
Christopher Todd Morrison, P.C.  
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David Pena and Rosa Cazares  
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David G. Peake  
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Houston, TX 77096

U.S. Trustee  
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/s/ Suzanne Frossard